

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
April 12, 2005**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Bigelow, Kenny, Conze

STAFF ATTENDING: Ginsberg, Keating

GENERAL MEETING

Chairman Damanti called the meeting to order at 8:00 p.m., and read the following agenda item:

Flood Damage Prevention Application #222-ADM, Scott & Lena Fritts, 34 Driftway Lane. Proposing to construct additions and alterations to the existing residence and perform related site development activities within a regulated area. The subject property is located on the east side of Driftway Lane, approximately 240 feet north of its intersection with Old Farm Road, and is shown on Assessor's Map #66 as Lot #127, in the R-1 Zone.

It was noted that the house is in the Flood Hazard Zone and that the proposed addition has been designed so that the foundation will comply with the Flood Damage Prevention Regulations and has been certified by the project architect and engineer. The applicant has also gone to the adjacent neighbors and had them "sign off" indicating that they do not see any adverse impacts to the construction project nor do they see the need for a public hearing. Commission members reviewed the plan and decided that they would waive the requirement for a public hearing. The following motion was made: That the Commission approve the proposed addition within the flood zone as presented. The motion was made by Mr. Spain, seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the following agenda item:

Discussion, deliberation and possible decision on closed public hearing items:

Business Site Plan #237/Special Permit, Dolman Properties, 22 Grove Street. Proposing to convert the existing residence to a real estate office, and construct a handicapped-accessible entrance to the existing building. The subject property is located on the northwest side of Grove Street, approximately 110 feet west of its intersection with Brook Street, and is shown on Assessor's Map #73 as Lot #20 in the CBD Zone.

The following motion was made: That the Commission waive the process of reading the draft Resolution aloud because each member has had an opportunity to read it prior to the meeting. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved. The Commission members discussed the need for a sidewalk to be installed to provide safe pedestrian access through the area and to the site. This would also provide separation between the on street parking and pedestrians accessing the site from off-site. Typically the sidewalk is installed at the

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owner's expense and must be completed prior to the Certificate of Occupancy which allows the use of the building. In this case, the applicant might participate in the public improvements program by the Town but that funding for sidewalk installation may not be available until the next fiscal year. The Commission agreed to revise the draft Resolution so that prior to the Certificate of Occupancy and/or the use of the building at 22 Grove Street: the sidewalk must be in and completed per the specifications; or the sidewalk would be bonded by the applicant and the terms of the bond shall call for the completion of the sidewalk by September 30, 2005. The following motion was made: That the Commission adopt the following revised Resolution to approve the Business Site Plan and Special Permit for 22 Grove Street:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 12, 2005**

Application Number: Business Site Plan #237/Special Permit

Street Address: 22 Grove Street
Assessor's Map #73 Lot #20

Name and Address of Applicant and Property Owner:	Daniel Dolcetti c/o Dolman Properties 9 Red Mill Lane Darien, CT 06820
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Activity Being Applied For: Proposing to convert the existing residence to a real estate office, and construct a handicapped-accessible entrance to the existing building.

Property Location: The subject property is located on the northwest side of Grove Street, approximately 110 feet west of its intersection with Brook Street.

Zone: CBD Zone.

Date of Public Hearing: April 5, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices Dates: March 24 & 31, 2005	Newspaper: Darien News-Review
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Date of Action: April 12, 2005	Action: APPROVED WITH CONDITIONS
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Scheduled Date of Publication of Action: April 21, 2005	Newspaper: Darien News-Review
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The Commission has conducted its review and findings on the bases that:

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- the proposed use and activities must comply with all provisions of Sections 650, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials, the Commission finds:

1. The proposal is to convert the existing residence to a back office support facility for the William Pitt Real Estate office at 1057 Boston Post Road and directly across Grove Street from this site, and construct a handicapped-accessible entrance to the existing building. The establishment of an office (a business and professional office) is a Special Permit use on the first floor of buildings within the CBD Zone.
2. Section 652 of the Darien Zoning Regulations specifically allows Business and Professional Offices in the Central Business District Zone if located on upper floors as of right. Section 654 of the Regulations allows Business and Professional Offices on the first floor by Special Permit provided that the Commission makes the findings that the retail use of such space is impractical, undesirable, and/or inconsistent with the standards under Subsection 1005h.
3. No review or action from the Architectural Review Board is necessary, as the applicant has not proposed any awnings, signs or façade changes at this time. Any future request for awnings and/or signage will need prior review and action by the Architectural Review Board
4. On March 16, 2005, the Zoning Board of Appeals approved the necessary variances for parking and to install a handicap ramp way for this project as part of Calendar #16-2005. That approval is hereby incorporated by reference.
5. The applicant is proposing to create a back office support office for the William Pitt Real Estate office on both the first and second floors of the existing building. The various site development changes require a business site plan under Section 1020 of the Darien Zoning Regulations, and the office use on the first floor requires a Special Permit under Section 654.
6. The existing building will serve as a back office/support facility for the William Pitt Real Estate office across the street. It will have full authorization to use the parking lot on that property.
7. As noted by the applicant, a William Pitt/Sotheby's Real Estate office at 1057 Boston Post Road exists directly across Grove Street from the subject property. The subject building is unique in its location. The Commission acknowledges that a parking lot for the 1057 Boston Post Road property is located in between the two buildings. Significant off-street parking exists in direct proximity to the site, including a municipal parking lot within the same block on Grove Street.

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8. It was also noted by the applicant that the proposed space would be inadequate for retail, and it has never been designed for such. There would not be enough parking for retail use (a more parking intense use than an office use according to the Zoning Regulations), and the building and the location are better designed for a back office/support facility for a real estate office which is directly across the street.
9. The Fire Marshal submitted comments for the record in this matter. The applicant has assured the Commission that all Fire Codes will be met as part of the renovation/conversion of this building.
10. At the public hearing, the Commission and the applicant discussed whether the installation of a sidewalk along the Grove Street frontage of this property would be appropriate. It was noted during the public hearing that the developer of the recently constructed Grove Street Plaza on the adjacent property to the east installed a new sidewalk as part of that project.
11. The application complies with all of the requirements of Section 650 of the Darien Zoning Regulations, except those for which variances have been granted.
12. Because of the unique location, conversion and re-use of the residential building to a non-residential use, the small size of that building, and the small size of the subject property (.11 acres), the existing residence which is being converted, the Commission finds that retail use of the proposed first floor space is impractical, undesirable, and/or inconsistent with the standards under Subsection 1005h.
13. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
14. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
15. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
16. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
17. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

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NOW THEREFORE BE IT RESOLVED that Business Site Plan #83-B/Special Permit is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Renovation of the existing building, construction of the handicap ramp way and other site changes shall be in conformance with the plans entitled:
 - Plot Plan of Property prepared for Dolman Properties, #22 Grove Street, scale 1"=10', by Arcamone Land Surveyors, dated January 25, 2005 and received in the Planning & Zoning Office on March 1, 2005.Additional interior modifications may be required to comply with the Fire Safety and Building Codes. Such interior changes can be handled by the Building Official, Fire Marshal and Planning Director without further action by the Commission. If further changes are needed to the exterior of the building or the site, then further action by the Commission will be necessary.
- B. The approved use is as back office/support for William Pitt Sotheby's Real Estate 1057 Boston Post Road. This approval is not for an office use in general, nor a stand alone real estate office, nor a back office support facility for a remotely located business. Due to the insufficient on site parking, any change of use from that which is approved may be difficult.
- C. Because of this property's location in downtown between a municipal parking lot and the newly renovated movie theater, and because it is common practice in Darien for all new commercial developments to install sidewalks, a sidewalk shall be furnished and installed by the applicant and/or property owner along the Grove Street frontage of the property. This sidewalk shall be designed per the Darien "Model Block" standards. The applicant shall work directly with the Public Works Director on the planning and implementation of the new sidewalk. If either or both of the large trees in the front yard need to be removed to accommodate the sidewalk, then replacement trees shall be installed to the satisfaction of the Public Works Director. The sidewalk and any necessary replacement trees shall be fully installed prior to the commercial use of and/or issuance of a Certificate of Occupancy for the building. If the applicant cannot complete the sidewalk prior to the issuance of a Certificate of Occupancy, then he shall file a bond for the full amount of the sidewalk and related improvements. Notwithstanding the foregoing, construction of the sidewalk must be completed by September 30, 2005.
- D. Because of the property's proximity to adjacent residential units in the Clock Hill Homes development, limitations on the hours of operation may become necessary. The Commission reserves the right to impose such a condition in the future if circumstances warrant. Written notification to the subject property owner shall be provided, and a Public Hearing shall be conducted by the Commission, before imposing any such condition.
- E. Due to the nature of the use, the Commission hereby grants a waiver of the loading zone requirement under Section 909 of the Zoning Regulations.
- F. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- H. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (April 11, 2006). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action, including the filing a Special Permit form in the Darien Land Records, or this approval shall become null and void.

The motion was made by Mr. Conze, seconded by Mr. Bigelow. Mr. Kenny abstained from voting on the application. The motion was passed by a vote of 4-0-1.

Chairman Damanti read the following agenda item:

Proposed Amendment of Town Zoning Map put forth by the Planning & Zoning Commission.

Proposing to rezone a property and a portion of the Old King's Highway North right-of-way now zoned DOR-5 (Designed Office and Research, 5 acre minimum lot size) to Office Business (OB). The subject property is located on the south side of Old King's Highway North, approximately 600 feet northeast of its intersection with Brookside Road, and is shown on Assessor's Map #35 as Lot #38 in the DOR-5 Zone.

The Commission members reviewed the draft Resolution. Mr. Bigelow said that as part of the new Town Plan of Development & Conservation the Commission should review all the commercial zones to make sure that they are current and reflect the tenor of the times. After a brief discussion, the following motion was made: that the Commission adopt the following Resolution to amend the Zoning Map as proposed:

**FINDINGS AND DECISION REGARDING:
PROPOSED AMENDMENT OF TOWN ZONING MAP
PUT FORTH BY THE DARIEN PLANNING & ZONING COMMISSION
APRIL 12, 2005**

Application

Proposing to rezone a property and a portion of the Old King's Highway North right-of-way now zoned DOR-5 (Designed Office and Research, 5 acre minimum lot size) to Office Business (OB). The subject property is located on the south side of Old King's Highway North, approximately 600 feet northeast of its intersection with Brookside Road, and is shown on Assessor's Map #35 as Lot #38 in the DOR-5 Zone.

Public Hearing

A public hearing was held on this matter on April 5, 2005 in room 206 of Darien Town Hall at 8:00 P.M. The hearing was closed the same evening.

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Description of subject property

The Darien Planning and Zoning Commission is proposing to rezone one property at 85 Old King's Highway North and a portion of the Old King's Highway North right-of-way from Designed Office and Research-5 acre minimum lot size (DOR-5) to Office Business (OB). The subject property is slightly less than 4+/- acres in size. There is now a building on the 85 Old King's Highway North property.

Findings

Per Section 8-3 of the Connecticut General Statutes, the Commission must state upon the record the reason why such change is made, and note whether it is consistent with the Town Plan. Therefore, the Planning and Zoning Commission makes its findings as follows:

Existing Definitions and Uses

In the OB Zone, Executive and Administrative Offices are permitted as of right. In the DOR-5 Zone, such uses are Special Permit uses. The OB Zone also allows Business and Professional Offices as-of-right, while the DOR-5 Zone does not allow them at all. The definitions are as follows:

As applicable to the DOR-5 Zone:

Offices, Administrative and Executive: An office facility which is designed to serve a headquarters or central administration type function and is not designed or oriented to provide goods and services directly to the local public. Parking facilities shall be used on a non-transient basis. In order to minimize the impact on traffic and parking by such facilities on neighboring residential areas, the Commission shall have the right to impose a limit of one employee per 250 square feet.

As applicable to the OB Zone:

Offices, Business and Professional: An office structure which supplies office space for businesses and professional persons who primarily provide goods or services directly to the local population. Such facility is generally subdivided into multiple units and typical tenants include doctors, lawyers, real estate agents, architects, engineers, and similar office uses. Requirements for pedestrian access and parking reflect the largely transient nature of the business activities.

As noted, Business and Professional offices include doctor's offices and such facilities. For example, a Medical Diagnostic Imaging Center would be considered a doctor's office, a business and professional use. The purpose of the OB Zone, as stated in Section 711 of the Darien Zoning Regulations, "This zone is designed to provide an area suitable for a combination of Executive and Administrative Offices and Business and Professional Offices." Since the existing building has had Executive and Administrative Offices, it is clearly suitable for that use.

The area around the property is a mix of zoning districts and uses. Immediately adjacent to the site are the DB-1, DB-2, R-1/2, and DOR-5 zones. Nearby are DC and OB.

The rezoning would provide flexibility for the existing property owner, and allow for more options for use of the building. It continues to preserve the integrity of the DOR-5 Zone, and

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keeps a clear distinction between Executive and Administrative Office uses and Business and Professional Office uses.

Consistency with Town Plan

The Commission believes that this zone map change is fully consistent with the 1995 Town Plan of Conservation & Development for the following reasons: the proposed zone change retains the existing scale of development, while improving the viability of this commercial area (p.76). The Commission continues to adhere to its policy of distinguishing between Executive and Administrative Offices and Business and Professional Offices, as specifically noted within the Town Plan (p.75).

Decision

Therefore, the Commission adopts the zone map change as presented, with an effective date of Sunday, May 1, 2005 at twelve noon.

The motion was made by Mr. Bigelow, seconded by Mr. Kenny and unanimously approved.

Chairman Damanti read the following agenda item:

2005 Town Plan of Conservation & Development

Discussion regarding:

- Format and style of document
- Concept Plans for downtown
- Revised draft of Regional Issues Chapter & Appendix (last revised 4/6)
- Revised draft of Housing Chapter & Appendix (last revised 4/6)
- Comments received to date

Commission members discussed the draft Town Plan of Conservation and Development. No motions were made and no actions were taken.

There being no other business, the meeting was adjourned at 9:30 PM.

Respectfully submitted,

David J. Keating
Assistant Director of Planning & Zoning